

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: OMURA, Yoshiharu

SERIAL NO.: 10/038,278

ART UNIT: 3727

FILED: January 4, 2002

EXAMINER: SMALLEY, J.N.

TITLE: CAN HAVING A COVER WITH A STAY-ON TAB

REMARKS ON AMENDMENT "B"

Director of the U.S. Patent  
and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Official Action of April 7, 2003, a response being due by July 7, 2003, please consider the following remarks in conjunction with the amendments to the above-identified application as follows:

REMARKS

Upon entry of the present amendments, previous Claims 7 - 10 have been canceled and new Claims 11 - 14 substituted therefor. Reconsideration of the rejections, in light of the foregoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of distinguishing the present invention from the prior art and also for removing the "new matter" object of all material.

In the Office Action, it was indicated that Claims 7 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Kobayashi patent in view of the Perry patent. Claims 9 and 10 were rejected under 35 U.S.C. § 103(a) as being obvious over the Kobayashi patent in view of

the Perry patent and further in view of the Cudzik patent. Claim 7 was also rejected under 35 U.S.C. § 112, first paragraph, as lacking an enabling disclosure. Additionally, independent Claim 7 was also objected to as introducing new matter to the disclosure. Claim 7 was also objected to because of a minor informality.

As an overview to the present reply, Applicant has amended the language of previous Claim 7 in the form of new independent Claim 11. Importantly, new independent Claim 11 removes the "new matter" found in previous Claim 7. Additionally, independent Claim 11 recites that the can cover has "wrinkles formed therein so as to extend thereacross and in generally parallel relationship to each other so as to prevent upward swelling of said can cover by an expansion of contents from the can". The "stay-on tab" is now recited as being "configured so as to be stackable upon an identical can cover". The "sea-saw effect" has more clearly recited in independent Claim 11 where it is stated that "each of said one end and said another end being inclined upwardly from said upper surface such that when one of the ends of said stay-on tab is pressed downwardly another end of said stay-on ab moves upwardly away from said upper surface of said can cover". Applicant respectfully contends that these features are neither shown nor suggested in the prior art Kobayashi or Perry patents.

With respect to the prior art rejections, Applicant notes that the Examiner has indicated that the Perry patent does disclose wrinkles 956 on the upper surface of the can. Applicant respectfully contends that these wrinkles are too short to achieve the goal of preventing upward swelling. In the Perry patent, the wrinkles 956 are actually small "ribs" which are arranged in proximity to the scored portion. Although there is no specific description of ribs 956 in the Perry patent, Applicant does reference the other drawings and the description of such "ribs" within the text of the Perry patent.

In particular, in column 7, lines 46 - 51, the description of the ribs 33 and 34 are described as follows:

The can top is made of relatively soft aluminum, and formation of ribs by pressing does not significantly reduce the strength of the top, even though the thickness of the metal is reduced to a small degree. Actually the ribs increase the rigidity of the top.

Additionally, in association with the ribs 85a and 86a, the Perry patent describes such structure in column 8, lines 37 - 44 as follows:

When the patch is applied to the underside of a can top, the ribs are aligned with the side edges of the opening. They provide slack in the foil, so when the tab is pushed down to open the can, there is no resistance along the side edges, and only at the end. This reduces the amount of pressure required to push the tab down and break the foil.

Throughout the various embodiments of the Perry patent, the "ribs" are designed so as to provide structural integrity to the can top and also for facilitating the opening of the can by separating the openable segment from around the score line. There is no mention in the Perry patent that discusses the use of such "ribs" for preventing upward swelling of the can cover by expansion of contents from the can. The present invention achieves this advantage by forming the wrinkles in the can cover so as to extend thereacross and in generally parallel relationship.

In the Kobayashi patent, the entire tab is straight and the ends of the tab are not bent upwardly. The distance between each end of the tab and the upper surface of the can is very small. As a result, the Kobayashi patent cannot have this "sea-saw effect". In the device of the Kobayashi patent, it is difficult to insert a finger between one end of the tab and the upper surface of the can.

In contrast, in the present invention, both ends of the tab are inclined or bent upwardly. This means that when one end of the tab is pushed downwardly, another end of the tab is moved upwardly

away from the upper surface of the can cover. Therefor, it is easy to insert a finger between the end of the tab and the upper surface of the can. This is the desired "sea-saw effect" achieved by the particular design of the present invention.

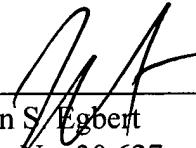
In the present invention, the end 17a and the opposite end 17b of the stay-on tab 17 are respectively inclined upwardly from the upper surface of the can cover 15 within an extent such that the stay-on tab 17 does not hinder the stacking of can covers. The "stackability" of the can cover is neither shown nor suggested in the prior art patents.

Applicant has introduced Claims 12 - 14 in place of previous Claims 8 - 10.

Based upon the foregoing analysis, Applicant contends that independent Claim 11 is now in proper condition for allowance. Additionally, those claims which are dependent upon Claim 11 should also be in condition for allowance. Reconsideration of the rejections and allowance of the present claims at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required.

Respectfully submitted,

6-20-03  
Date

  
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